



Senate

General Assembly

File No. 505

January Session, 2005

Substitute Senate Bill No. 1256

Senate, April 25, 2005

The Committee on Finance, Revenue and Bonding reported through SEN. DAILY of the 33rd Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING THE DEFINITION OF "CHAIN STORE" FOR PURPOSES OF CERTAIN CIGARETTE TAX STATUTES.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (a) of section 12-286 of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective July*
3 *1, 2005*):

4 (a) (1) The commissioner shall, after May 25, 1994, require for an
5 initial application for a distributor's license, in addition to such other
6 information deemed to be necessary, the filing of three affidavits from
7 three recognized manufacturers of cigarettes stating such
8 manufacturers' intent to supply the distributor if the applicant is
9 granted a license. A chain store shall be exempt from filing such
10 affidavits. Any pending application on May 25, 1994, and any person
11 purchasing the business of a licensed distributor shall be exempt from
12 filing such affidavits. For purposes of this subsection, "chain store"

13 means the operator [or franchisor] of five or more retail establishments
14 with common ownership and control.

15 (2) The commissioner may make public a list of recognized
16 manufacturers of cigarettes.

17 Sec. 2. Subsection (a) of section 12-326a of the general statutes is
18 repealed and the following is substituted in lieu thereof (*Effective July*
19 *1, 2005*):

20 (a) As used in sections 12-326a to 12-326h, inclusive, (1) "stamping
21 agent" means a licensed distributor other than a buying pool, who
22 purchases cigarettes at wholesale from manufacturers or other
23 distributors for sale to licensed dealers and who maintains an
24 established place of business, including a location used exclusively for
25 such business, which has facilities in which a substantial stock of
26 cigarettes and related merchandise for resale can be kept at all times,
27 and who sells at least seventy-five per cent of such cigarettes to
28 retailers who, at no time, shall own any interest in the business of the
29 distributor as a partner, stockholder or trustee; (2) "subjobber" means a
30 licensed distributor who purchases stamped cigarettes at wholesale for
31 sale to licensed dealers who, at no time, shall own any interest in the
32 business of the distributor as a partner, stockholder or trustee; (3)
33 "chain store" means a licensed distributor (A) operating [or
34 franchising] five or more retail stores with common ownership and
35 control in this state for the sale of cigarettes who purchases cigarettes
36 at wholesale either from another distributor or direct from the
37 manufacturer for sale to dealers but sells such cigarettes exclusively in
38 or to retail stores such person is operating, [or franchising] or (B)
39 operating and servicing twenty-five or more cigarette vending
40 machines in this state who buys such cigarettes at wholesale and sells
41 them exclusively in such vending machines; (4) "cost" means the basic
42 cost of cigarettes plus the cost of doing business; (5) "basic cost of
43 cigarettes" means (A) the lower of (i) the invoice cost of the cigarettes
44 to the distributor or dealer, as the case may be, or (ii) the replacement
45 cost in the quantity last purchased, plus (B) the full face value of any

46 stamps which may be required by this chapter, if not already included
 47 in the invoice cost, minus (C) all trade discounts, if any, other than
 48 cash discounts; (6) "cost of doing business" means the costs, as
 49 computed for federal income tax purposes, that are related to the sale
 50 of cigarettes, including but not limited to labor costs, including salaries
 51 of executives and officers, rent, depreciation, selling costs, maintenance
 52 of equipment, delivery costs, interest, licenses, taxes, insurance,
 53 advertising, preopening expenses and any central and regional
 54 administrative expenses, expressed as a percentage of the basic cost of
 55 cigarettes and applied thereto. In applying such percentage to the basic
 56 cost of cigarettes, any fractional part of a cent equal to one-tenth or
 57 more of one cent per carton of ten packages of cigarettes shall be
 58 rounded to the next higher cent.

This act shall take effect as follows and shall amend the following sections:

| | | |
|-----------|---------------------|------------|
| Section 1 | <i>July 1, 2005</i> | 12-286(a) |
| Sec. 2 | <i>July 1, 2005</i> | 12-326a(a) |

GL *Joint Favorable Subst. C/R* FIN

FIN *Joint Favorable*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note**State Impact:**

| Agency Affected | Fund-Effect | FY 06 \$ | FY 07 \$ |
|--------------------------------|-------------|----------|----------|
| Department of Revenue Services | GF - None | None | None |

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill has no fiscal impact because it is not anticipated to alter the revenue generated from taxes imposed on cigarettes.

OLR Bill Analysis

sSB 1256

AN ACT CONCERNING THE DEFINITION OF "CHAIN STORE" FOR PURPOSES OF CERTAIN CIGARETTE TAX STATUTES**SUMMARY:**

This bill redefines "chain store" for purposes of the laws requiring cigarette sellers to obtain a state license and to mark-up cigarettes by a certain percentage by excluding franchisors from the definition of "chain store." Under the bill, a chain store consists of at least five retail stores under common ownership and control.

EFFECTIVE DATE: July 1, 2005

BACKGROUND***Chain Stores Selling Cigarettes***

The law requires a "chain store" to obtain a license as a distributor from the Department of Revenue Services. It prohibits selling cigarettes below cost and defines "cost," absent proof otherwise, in a way that depends on the type of seller and transaction. Sellers must sell at their basic cost plus a percentage representing their cost of doing business.

| Distributor | Cost of Doing Business |
|---|------------------------|
| Stamping agent selling to subjobbers and chain stores | .875% |
| Stamping agent selling to dealers | 5.75% |
| Subjobber selling to dealers | 4.875% |

COMMITTEE ACTION

General Law Committee

Joint Favorable Substitute Change of Reference

Yea 15 Nay 0

Finance, Revenue and Bonding Committee

Joint Favorable Report
Yea 47 Nay 0